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Filing date: **04/15/2013**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	91209556
Party	Defendant ABC Home Furnishings, Inc.
Correspondence Address	THOMAS H. CURTIN LATHROP & GAGE LLP 230 PARK AVE RM 2400 NEW YORK, NY 10169-2402 tcurtin@lathropgage.com
Submission	Answer
Filer's Name	Thomas H. Curtin
Filer's e-mail	tcurtin@lathropgage.com
Signature	/Thomas H. Curtin/
Date	04/15/2013
Attachments	2013-04-15 Answer to Notice of Opp - 85,405-953.pdf (5 pages)(943722 bytes)

2. Applicant admits the allegations set forth in paragraph 2 of the Notice.
3. Applicant admits that it is the owner of the Application which was filed with the U.S. Patent and Trademark Office (“USPTO”) on August 24, 2011 based upon an intention to use pursuant to 15 U.S.C. §1051(b) and, except as so admitted, respectfully refers the

Trademark Trial and Appeal Board to the records of the U.S. Patent and Trademark Office concerning the Application for information on the goods and services covered by the Application. Except as so admitted and stated, Applicant otherwise denies each and every remaining allegation set forth in paragraph 3 of the Notice.

4. Applicant admits the allegations set forth in paragraph 4 of the Notice.
5. Applicant lacks knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 5 of the Notice and therefore denies the same.
6. Applicant lacks knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 6 of the Notice and therefore denies the same.
7. Applicant lacks knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 7 of the Notice and therefore denies the same.
8. Applicant lacks knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 8 of the Notice and therefore denies the same.
9. Applicant lacks knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 9 of the Notice and therefore denies the same.
10. Applicant lacks knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 10 of the Notice and therefore denies the same.
11. Applicant denies the allegations set forth in paragraph 11 of the Notice.
12. Applicant denies the allegations set forth in paragraph 12 of the Notice.
13. Applicant denies the allegations set forth in paragraph 13 of the Notice.
14. Applicant lacks knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 14 of the Notice and therefore denies the same.
15. Applicant lacks knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 15 of the Notice and therefore denies the same.

COUNT I

Likelihood of Confusion

16. Applicant repeats and realleges each and every response to each and every allegation set forth in paragraphs 1 through 15 of the Notice as if fully set forth herein.
17. Applicant denies the allegations set forth in paragraph 17 of the Notice.
18. Applicant denies the allegations set forth in paragraph 18 of the Notice.

COUNT II

Trademark Dilution

19. Applicant repeats and realleges each and every response to each and every allegation set forth in paragraphs 1 through 18 of the Notice as if fully set forth herein.
20. Applicant denies the allegations set forth in paragraph 20 of the Notice.
21. Applicant denies the allegations set forth in paragraph 21 of the Notice.
22. Applicant denies the allegations set forth in paragraph 22 of the Notice.

AFFIRMATIVE DEFENSE

23. The Notice fails, in whole or in part, to state a claim upon which relief can be granted.

WHEREFORE, Applicant respectfully requests that Opposition No. 91209556 be denied and that Application No. 85/405,953 for the mark ABC KITCHEN and Design be passed to registration.

Dated: New York, New York
April 15, 2013

LATHROP & GAGE LLP

By: 

Thomas H. Curtin

230 Park Avenue, Suite 2400

New York, New York 10169

Tel: (212) 850-6220

Fax: (212) 850-6221


Attorneys for Applicant

ABC Home Furnishings, Inc.

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the foregoing Answer To Notice Of Opposition was served this 15th day of April, 2013 via first class mail, postage prepaid, upon the attorneys for Opposer at the following address:

Timothy Fraelich, Esq.
Jones Day
North Point
901 Lakeside Avenue
Cleveland, Ohio 44114-1190



Thomas H. Curtin